

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 22**

**HORIZON GROUP USA, INC.**  
Employer

and

**CASE 22-RC-12375**

**LOCAL 947, UNITED SERVICE AND  
ALLIED TRADES, AFL-CIO<sup>1</sup>**  
Petitioner

**DECISION AND DIRECTION OF ELECTION**

**I. INTRODUCTION**

The Petitioner filed a petition under Section 9(c) of the National Labor Relations Act, seeking to represent an appropriate unit of the Employer's employees. As I find that there were no issues raised which would preclude an election in this matter, I will direct an election in an appropriate unit. I further find, for the reasons described below, that the Petitioner is a labor organization within the meaning of the Act.

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Upon the entire record in this proceeding,<sup>2</sup> I find:

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<sup>1</sup> The name of the Petitioner appears as amended at the hearing.

<sup>2</sup> Although the Hearing Officer failed to set a date for the receipt of briefs at the hearing in this matter, it is noted that Section 102.67(a) of the Board's Rules and Regulations provides, *inter alia*, that "Any party desiring to submit a brief to the Regional Director shall file the original and one copy thereof, ...within 7 days after the close of the hearing..." A brief filed by the Employer was considered; no other briefs were filed.

1. The hearing officer's rulings are free from prejudicial error and are hereby affirmed.<sup>3</sup>

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.<sup>4</sup>

3. The labor organization involved claims to represent certain employees of the Employer.<sup>5</sup>

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.<sup>6</sup>

5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the act:

**All production, maintenance, receiving, shipping, stock replenishment, pick P-1-C-K/pack, inventory control and quality control employees employed by the Employer at its Union, New Jersey location, excluding all office clerical employees, professional employees, guards and supervisors as defined in the Act, and all other employees.<sup>7</sup>**

## **II. LABOR ORGANIZATION STATUS OF THE PETITIONER**

The Employer declined to stipulate that the Petitioner is a labor organization under the Act. The record reveals and it is undisputed that the Petitioner was formed for the purpose of dealing with employers concerning wages, rates of pay, hours and

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<sup>3</sup> The Employer asserts in its brief that, at the hearing, it was precluded from developing an adequate record on the labor organization issue because the Hearing Officer curtailed its cross examination on this issue. I note that during the hearing the Employer did not make an offer to prove that the Petitioner was not a labor organization within the meaning of the Act. Accordingly, I find that the Employer was not prejudiced by the Hearing Officer's rulings.

<sup>4</sup> The Employer is engaged in the manufacture and distribution of craft products at its Union, New Jersey facility, the only facility involved herein.

<sup>5</sup> The status of the Petitioner as a labor organization is discussed *infra*.

<sup>6</sup> There are no bars asserted to an election in this matter.

<sup>7</sup> The unit description is in accord with the agreement of the parties, which I find to be appropriate for purposes of collective bargaining. There are approximately 200 employees employed in the unit.

working conditions on behalf of employees it seeks to represent. The record reveals that the Petitioner intends to allow employees to participate in its affairs by allowing employees to serve on negotiating committees and approve collective bargaining agreements that are reached. I have taken administrative notice that the showing of interest submitted by the Petitioner in support of the instant petition authorizes the Petitioner to represent employees and negotiate on their behalf.

With regard to labor organization status, there are essentially only two requirements for a party to meet to achieve the status of a labor organization as defined by Section 2(5) of the Act: first, it must be an organization in which employees participate; and second, it must exist for the purpose, in whole or in part, of dealing with employers concerning wages, hours, and other terms and conditions of employment. *Alto Plastics Manufacturing Corp.*, 136 NLRB 850 (1962). I find that the Petitioner has satisfied the definitional requirements. In this connection, noting that the Petitioner has submitted a requisite showing of interest where employees have designated it to represent them in collective bargaining, that based thereon it has filed the instant petition and that it intends to bargain on behalf of employees in the event it becomes their representative, I find that the Petitioner is an organization in which employees participate within the meaning of Section 2(5) of the Act. *Grand Lodge International Association of Machinists*, 159 NLRB 137 (1966); *Pittsburgh Limestone Corporation*, 77 NLRB 710 (1948).

Based upon the above, and the record as a whole, I find the Petitioner to be a labor organization under Section 2(5) of the Act. *Ana Colon, Inc.* 266 NLRB 611, 612

(1983); *Alto Plastics Manufacturing Corp.*, above.<sup>8</sup>

### **III. DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned Regional Director among the employees in the unit found appropriate at the time and place set forth in the notices of election to be issued subsequently subject to the Board's Rules and Regulations. Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Employees engaged in an economic strike who have retained their status as strikers and have not been permanently replaced are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike that have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced. Those eligible to

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<sup>8</sup> At the time of the hearing in this matter, the Petitioner asserted that its international was in the process of affiliating with another union identified as IUJHT. It is noted that no party raised this potential affiliation as an issue in this proceeding.

vote shall vote whether or not they desire to be represented for collective bargaining purposes by **Local 947, United Service and Allied Trades, AFL-CIO.**

#### **IV. LIST OF VOTERS**

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties in the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within seven (7) days of the date of this Decision, two (2) copies of an election eligibility list containing the full names and addresses of all the eligible voters in the unit found appropriate above shall be filed by the Employer with the undersigned, who shall make the list available to all parties to the election. *North Macon Health Care Facility*, 315 NLRB 359 (1994). In order to be timely filed, such list must be received in NLRB Region 22, 20 Washington Place, Fifth Floor, Newark, New Jersey 07102, on or before **September 10, 2003**. No extension of time to file this list shall be granted except in extraordinary circumstances nor shall the filing of a request for review operate to stay the requirement here imposed.

#### **V. RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001. The Board in Washington must receive this request by **September 17, 2003**.

Signed at Newark, New Jersey this 3<sup>rd</sup> day of September, 2003.

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Gary T. Kendellen, Regional Director  
NLRB Region 22  
20 Washington Place  
Fifth Floor  
Newark, New Jersey 07102

177-3200  
177-3925  
347-4030